

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**October 23, 2003**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 23, 2003, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Kerry Coulter, Vice-Chair; James Barfield (In @ 1:35); Bud Hentzen; Ray Warren; John W. McKay Jr. (In @ 1:41); Bill Johnson (Out @ 3:38); Morris K. Dunlap (Out @ 4:23 back @ 4:27); Elizabeth Bishop; M.S. Mitchell; Ed Sunquist; David Wells; Frank Garofalo. Bob Hernandez was not present. Staff members present were: Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; and Rose Simmering, Recording Secretary.

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**1. Approval of MAPC meeting minutes October 9, 2003.**

No minutes to approve.

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**2-1. SUB2003-96 – Final Plat – ENGLISH COUNTRY GARDENS ADDITION (Formerly Cottage Gardens Addition), located west of Tyler Road, north of 13<sup>th</sup> Street North.**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The applicant shall contact **Debt Management** regarding the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **An off-site drainage agreement is needed. A guarantee is needed for drainage improvements.**
- E. **The Subdivision Committee has approved a 64-ft right-of-way for Thurman with a 20-ft building setback.**
- F. **City Fire Department** needs to comment if the 32-ft street intersections allow for a proper turning radius for fire vehicles. **City Fire Department has approved the intersections.**
- G. The Applicant shall guarantee the paving of the proposed streets. For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City of Wichita.
- M. The recording information for all pipeline easements shall be indicated on the face of the plat.
- N. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. It is recommended that the pipeline easement crossing the plat be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement. **The applicant will be platting a Reserve for the pipeline easement.**
- O. **GIS** needs to comment on the plat's street names. **The stub at the southwest corner of the plat shall be named Reca. The**

**street north of Reserve B shall be named Suncrest.**

- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **WARREN** seconded the motion, and it carried (11-1-1) **BISHOP** opposed, **MCKAY** abstains)

2-2. **SUB2003-98- Final Plat – HILLTOP ACRES ADDITION, located on the northeast corner of 151<sup>st</sup> Street West and 29<sup>th</sup> Street North.**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. **A memorandum shall be obtained specifying approval of the proposed individual alternative sewer system from County Code Enforcement along with a maintenance agreement.**
- C. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services. **The Subdivision Committee has approved a petition for future sewer and water services across 29<sup>th</sup> St. North. A No Protest Agreement shall be provided for the interior lots. "The No-Protest Agreement shall not be activated until the property has been annexed."**
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **Additional drainage easements may be needed.**
- F. The plat proposes a joint access opening along 29th St. North 206 feet from the intersection. **The Subdivision Committee approved a joint access for Lots 13 and 14 along 29th North.**
- G. A contingent street right-of-way has been platted for the required major intersection right-of-way and corner clip. **The Subdivisi on Committee approved a contingent street right-of-way for the intersection.**

This contingent street dedication shall be referenced in the platlor's text as becoming effective in the event that the appropriate governing body determines a need for the right-of-way for any street-related purposes.

- H. In accordance with Access Management Regulations for county plats, complete access control is required for arterials intersecting with local streets. **County Engineering has requested complete access control of 75 feet along Hilltop from both 151st St. West and 29th St. North.**

The requested access controls have been platted.

- I. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)

- J. The applicant shall guarantee the installation of Shadow Lakes Ct to the 36-ft rock suburban street standard.

- K. **The Subdivision Committee has requested the platting of additional utility easements along the rear of the lots.**

The easements have been platted as requested.

- L. Since this plat is located in an area where public services are planned to be available for higher density development, in accordance with the Subdivision Regulations, the Applicant shall use Lot Bundling to plat the lots so they may be readily converted to urban-type building sites without replatting. **Lot Bundling has been waived by the Subdivision Committee.**

- M. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 3 and 4, Block B. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The Subdivision Committee has approved a modification.**

- N. **GIS** needs to comment on the plat's street names. **Lombard Lane Circle shall be revised to Lombard Ct. Lombard Lane should be denoted as "Lombard Ln".**

- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- P. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- V. Perimeter closure computations shall be submitted with the final plat tracing.

- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.

- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff This plat was reviewed by the Subdivision Committee last week who approved the plat in accordance with the applicant's request and the Sewer and Water Department is appealing that decision. This plat is located within 3-miles of the City of Wichita. The Wichita Water and Sewer Department requested a petition for a future extension of sanitary sewer and water services in accordance with their policy for plats within a three mile ring. Acquiring these petitions in advance of the need for services is considered beneficial, as it may be difficult to obtain agreement from future property owners when those lots are sold. So the applicant instead though offered a petition for future services only across 29<sup>th</sup> North with costs assessed on an equal per lot basis and a no protest agreement was offered for the interior lots. No protest agreements allow the City to order in a project and construct sewer and water improvements without the consent of the property owners. Their property would be included in the sewer and water benefit districts and the owners have waived the rights to protest.

**Jerry Blain Sewer and Water Dept. (presented handout):**

Testimony Concerning Hilltop Acres Estates

David Warren, Director of Water and Sewer Department

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City of Wichita  
October 23, 2003

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The Wichita Water and Sewer Dept. appreciates that opportunity to comment on the proposed Hilltop Acres Estates. The City of Wichita has strong concerns about this proposed development. This proposed plat is located within 2 miles of the new Cowskin Creek Wastewater Treatment Plant, and it is in the planned service area for this new facility. To respond to pressures from developers the City expedited the construction of this new facility, at a cost of almost \$30 million. The City relied on the information provided by this body, as shown in the Comprehensive Plan, to determine the service area for the new treatment plant. The identification of the service area is a critical component of the project, because it not only is needed to establish the size of the facility, but to compute the cost recovery of the investment.

If this development is approved, it will remove 40 acres from the service area, and represent a loss of approximately \$200,000 over a ten-year period toward the cost recovery of the new treatment plant. Those costs would then have to be assessed to the other customers in the City.

In addition to affecting the financing and operation of the treatment plant, it also impacts the distribution system. When the sewer system is installed it will now have an area that will not be assessed for the construction, even those line will have to span the area, and therefore it will dramatically increase the cost of the sewer system for other future developments in that area.

If this development were located ¼ mile from water and sewer service, would this body approve it if it did not include providing water and sewer service? How about ½ mile, or 1 mile? Where is the point at which you, as a planning entity, are willing to forego providing essential public services? We would submit that the distance should not necessarily be the defining component, but where a proposed development sits relative to the expected growth of the City. There is absolutely no doubt that this plat will be inside the City's growth pattern in only a few years. By approving this development you will be sentencing the future residents of this plat to substandard water, sewer and fire protection while located within the City.

We must also assume that this is not the only proposed plat that will come before this body that will be on the "fringe" of the City's growth area. By establishing the ability of developers to exempt themselves from the expansion of City services, you can essentially strangle the growth of the City, while "exceptions" proliferate.

Another area of concern is water usage in the development. The water rights in this area have already been fully allocated. According to a safe-yield analysis of the site, the safe-yield, or the amount of water that can be removed from this section of the aquifer and be replenished by rainfall, is 2,123 acre-feet. However, water appropriations have already been issued that total 2,455 acre-feet. In other words, more water appropriations have already been issued than the aquifer can safely yield. If a single municipal well were used to serve this plat, it would require an appropriation of approximately 50 acre-feet. Because this area is already over appropriated, they would not be able to obtain an appropriation for that water. Unfortunately, at this time individual domestic wells, which will withdraw as much water a single municipal well, are exempt from obtaining a water appropriation, but that does not mean they would not have the same impact on the aquifer. They would also be a "junior" water right. What that could potentially mean is that if a senior water right holder complains that these water users are impairing their water right, that they could be required to halt their water use. We are also not aware of whether or not the water at this site has been tested for water quality, but there is a strong possibility that nitrate levels at this location could already exceed the standards for nitrate contamination, and the water fails to meet drinking water standards.

We recognize that developers can sometimes buy land at a lower cost slightly farther out from the current growth ring of the City, as this plat demonstrates. We also recognize the higher cost to extend services to those more remote locations. The Department is willing to consider alternative means of funding those extensions that would reimburse a developer for additional costs to extend a line as the land is developed along the new line. While there is a significant amount of work needed to implement such a policy, we think it is worth exploring, and we have asked WAHBA to help shape this additional development tool. Such a tool would address many of the issues associated with this type of plat.

Because of this plat's impact on the sewer service area, its impact on financing facilities that have already been constructed, its affect on the growth pattern for the City, and the lack of a viable water supply for the development, the City opposes this plat.

GAROFALO Were you at the Subdivision meeting?

BLAIN No, but there was a representative from the Water Department there.

SUNQUIST If the City is willing to do this, and the developer is willing to do this, how soon will the City be able to provide the water and services to this area?

BLAIN This policy is not on the books right now, but by right away if you say within the next 6 weeks, could we have a water line and sewer line out there? The answer to that would be no. Can it get there within six-months to a year? The answer would be probably, yes.

DUNLAP Under the no protest provision that has been proposed, it does not prevent the interior lots from being forced into a sewer that comes later, correct?

BLAIN That is correct.

DUNLAP Does it exempt them from payment for that?

BLAIN It does not exempt them from payment from that. That would be the problem. The reality is they are going to view is they have already paid for something, so they are not going to be supportive to pay for something again. If you will buy putting that kind of condition on there, you are putting it into the laps of the governing body to order in something, in that at this point and time, you would have the opportunity to prevent it.

DUNLAP You are not making a statement on the individual sewage systems themselves. You are not saying that they don't work?

BLAIN As an engineer, I can tell you that you can come up with a system that technically will probably make that, and come up with policies to make that, and my understanding is that the policies and all this other stuff that would be needed to implement such a system don't exist, and we have issues with that too. But technically can you make a system work to provide adequate water quality? The answer is yes, if you put all the pieces in place. But the issue, as far as impact on our facilities, and growth impacts are here regardless whether or not.

DUNLAP Are you familiar with any studies done by the County? Because this sits in the County, and the County has approved this type of sewage system.

BLAIN My understanding is that the County has not approved a particular system or systems. All they have done is approve a concept, or a system or systems. They have not approved how they would be implemented, who is going to maintain them, all those little details.

DUNLAP They are in use in the County now. They are approved, in place, in use, by homeowners today.

BISHOP One of my concerns is about this situation: if you have a Subdivision like this, and this is near an urban standard subdivision that is well out in the County, and if at some point of time, some of these individual alternative waste water treatment systems...the County is still looking at the notion of package plants for Subdivisions as a whole, where everyone is connected up to the same system, but it is still separate from municipal services. But what would happen if you would have a few homes up in the northeast corner of this development that because of the soil, drainage patterns, or whatever, do not have a successful experience with their alternative system, and want to petition for City water, but they can't talk their neighbors into it. What is the process there?

BLAIN Well, it would take 50%, but if I read the concept of this plat, the idea is when sewer systems show up, and is available, the City Council is supposed to order it in to everybody, and they wouldn't complain about it.

BISHOP How often has this happened?

BLAIN It is rare to order in a sewer system.

BISHOP Doesn't it have to be a health problem?

BLAIN Yes.

MITCHELL On what basis do you indicate that this would provide a sub-standard sewer system?

BLAIN The system that they would have would not be comparable to City Municipal Water and Sewer systems. I don't think that anyone who has a septic tank would want to say, over the life of a property, that given a choice for the same price that municipal sewer service is not superior to any on-site sewer and water service.

MITCHELL Do you have any factual evidence of that statement?

BLAIN The water that we remove from the sewage treatment plant meets all EPA regulations for discharge. I don't believe you could necessarily say that for on-site systems. Without seeing the system that is already proposed, I can't tell you that system, and all systems like it, would be able to meet that same standard for chemical reductions, as opposed to just biological reductions. Give the specifics of a system and I could tell you the differences. But as a broad statement, I have no problem saying that municipal water and sewer service is superior, and will exceed all on-site sewer systems.

MITCHELL You can't give me a statement that would show that the system that would be used here would be inferior to a City system, as far as chemical treatment of the effluent?

BLAIN What system are you going to use? I can make a statement, without a doubt, that on-site sewer and water systems are inferior to municipal water and sewer services.

MITCHELL You made the statement, I am asking for proof.

BLAIN I did not bring all those statements with me.

MITCHELL From the water standpoint, is there a water irrigation system on the quarter section being developed?

BLAIN No.

GAROFALO Did the Water Department discuss this with the Planning Department before the plat came up to Subdivision Committee? The Planning Staff is recommending approval of the plat. Did you discuss this with the Planning Staff all these potential problems?

BISHOP The Planning staff also includes the staff comment that the petition should be required. I believe what Planning staff means is to recommend approval with this included.

BLAIN I was not involved in those discussions, we have been doing some shuffling of staff in the last few weeks, and so I am on the end of the discussions of this. So, I can't tell you personally what happened a month ago.

BISHOP I am speaking as a member of the Subdivision Committee.

HENTZEN Is this in the City or the County?

BLAIN The location of that proposed plat is outside of the boundary of the City.

HENTZEN Is it anywhere near or in that northwest passageway?

MILLER Yes, it is in the broadly defined corridor.

BLAIN It is within the service area of the sewage treatment plant that we have constructed.

MARNELL Your primary concern is a political one, when the area becomes annexed the City would then enforce the petitions which would anger the homeowners for paying twice, as you say, because then they would get special assessments, I would assume, for the sewage and water construction, and having already paid for it as part of their building, and putting an on-site system in. Is that correct?

BLAIN Part of that is the political reality of ordering services in. The other part is even ordering it in will deal with a portion of the issue, but it will not deal with the overall problems of developing the distribution system where you are going to have a piece that you can order in, but you are not going to be able to order those people to pay for the cost of these people that are right next to them, and those people are going to have to pay even more because their neighbors are not going to be included in their system. You are only going to be able to order them to pay the specific cost of their lot, if you will, you will not be able to order them to pay for the mains or the other components of the distribution system which are included in expansion. You have a much narrower target when you order people to put in a system.

MARNELL If they ordered in those services now, and the sewer and water is two miles away, would those lots be assessed all the cost of the sewer or water system for that two miles to get to there, in addition to their own portions having to do with their lots?

BLAIN At this point and time; which is why we are trying develop an alternate funding thing where those could be financed, and then as development occurs along that extension, the gap in those costs would be reimbursed back to the original developer who paid the up-front costs.

MARNELL If, in the actual course of development of land where the sewer and water systems are today, as that develops progressively and gets to this point, won't those costs be absorbed along the way through the people that it is serving, so that when it gets here to this property there wouldn't be any overhead? It would be the portion that deals with this area?

BLAIN That is correct, if it was built in that fashion, but if you exempt this piece then the way that you would be able to build that in an orderly fashion is going to be different, because you are going to have to completely address it separately than if you would if it was the next domino, if you will, in the progression. Because it won't be the next domino, because it will already have something, and so you are going to have to order it in to replace something.

BAUGHMAN COMPANY, PHIL MEYER, The County has on the books, and has approved individual Alternative Sewer Systems. That individual Alternative Sewer System requires a one-acre or more lot size. Now, the County is still working on the Community Alternative Sewer System policy, and within the next two or six months that will be approved, but that is not the one that is not approved yet, but the individuals are. The plat that we have before you today has lot sizes all over one acre so they all qualify for the individual Alternative Sewer System. We did have meetings with the City going through the platting process, where we have talked about a compromise to their position that they want petitions for everything, both the mains that go along the arterial and the interior.

This development started as an alternative to the five-acre tracts; and the alternative sewer systems, this allows people to go out into the County, develop one acre, put an alternative sewer system on it, and not have to have a five-acre tract. Right now we have problems out in the County that people have to have five acres, and a lagoon on it to develop. So, they are living on one or two acres and they are letting the rest go. This development option gives us the opportunity to let people develop and develop

something other than that five-acre tract. It is very difficult to get sewer and water passed in the future. We are presently two miles away from sanitary sewer. The City has talked about trying to work with developers to where they can drag sewer out here to their development and then be reimbursed as development goes along. That is not going to work in theory, no developer can afford to extend the sewer for two miles and wait to be repaid as development occurs. It could be 10-15 years before sewer gets out here. But to develop two miles urban standard is not going to happen in 2-3 years. It will take awhile.

The compromise that I have offered from day one with the City, and what the Subdivision approved, is that we supply petitions to get the mains past this development so that, for sanitary sewer and water, we are responsible to pay one-half of the cost to get the main from the east side of the plat to the west side of the plat. The key to that petition is we are not cheating or hampering the City from growing. We are paying our proportionate share of sewer and water mains to get past us. That something that has not occurred. Yet today, as the City grows out past County developments now, the developers have the problem of how do I get past that existing five-acre tract development? Well, these petitions solve that concern. The no protest agreement basically is, if the sewer gets out here in 8-10 years and all these alternatives are working correctly, we don't really need to extend sewer into the development if it is working fine. If they get out here, and there is a percentage of these that are having a problem or the City just decides they want to extend sewer in there, this no protest agreement gives the City the tool to put sewer in there that they don't have today. Everyone has been put on notice that it could happen, and if 35% of these people want sewer this no protest agreement gives that Council Member a tool that he doesn't have today. He doesn't have to have 51% of the people; he can use that as a tool to implement it in.

There is an unknown out there, on these petitions and the life expectancy of a petition. Right now, legal counsel for the City tells them these petitions are good for about 5-8 years. Nobody really knows the life term. I do know that if the City has petitions that are over 5 years old they try to go get new petitions because there is an unknown on the length of the life on those petitions. This no protest petition solves that problem. If it is 10 years before sewer gets out here, and none of those petitions are any good, you have really hampered the City more than helped them.

MITCHELL Do you know if there is a water appropriation on this land?

MEYER I do not know.

MITCHELL Have any tests been done on the water in that area?

MEYER Not on the water. We did soil profiling for the alternative sewers prior to filing the plat to make sure this soil allowed the lot size that we were developing, but we did not do any water testing.

GAROFALO Is water testing required by the County?

MEYER No.

GAROFALO You are not concerned about the water issue? You think there is plenty of water there for everyone, and that it is clean, pure, and sweet water.

MEYER Yes.

WARREN If we look at the history, one of the hottest subjects is how do we preserve the farmland? Now, if the alternative sewer is the vehicle by which that can happen, so instead of using up farmland out there on five-acre tracts, we can use it up on acre tracts where five or ten people can live on an acre. Now, there is going to be a cost involved, somewhere around \$10,000 a lot, for this alternative sewer system. If it is working like they have talked about in 5-10 years, then these people are going to object to being hooked up to the City sewer system. So we talk about the petitions versus the no protest agreement, and the speaker was right. The applicant is right, there is some question on how long the petition runs, and the no protest agreement can run, as would the restrictive covenants, as long as they are specified to run. So the reason the Subdivision Committee went with this no protest is that the sewer could just be arbitrarily forced on them. The sewer could be put in once that land is annexed into the City, and if it could be proven that there is a health and safety issue there, then the no protest could kick in, and folks wouldn't be able to say anything about it. They would have to accept it.

We don't have the authority to deny a plat because one government disagrees with another. As near as we can determine, this applicant has met every condition of our Subdivision Regulations, and I found myself in a position of saying I don't have any grounds for denying this plat.

BISHOP However, in the discussion of preserving agriculture land, open land, green belts, there was the discussion of considering that you could have five 20-acre lots, with clustering of the homes in a smaller area. Granted, that there might be this new technology that made that possible, and the rest of it would be dedicated for open space. That never got solidly on the table in the discussion of the last Comprehensive Plan. One thing that did get passed was bundling, and bundling is part of the Zoning Code now. However when this came up that was the first thing that was passed up. This, in my opinion, is creating a problem, because the County refused to recognize the external problems of the policy on allowing alternative sewer systems where the soil would say that it is okay, and this Commission refused to provide some reasonable limits to growth. What we have got is an urban style subdivision well out in the County, and this one is at least in the 2030 Growth area, and what we are going to be doing, if we approve this as passed out of the Subdivision Committee ... we will be creating a problem for the City to solve later.

**MOTION:** To accept the plat based on the staff recommendations and not as was submitted by the Subdivision Committee.

**BISHOP** moved, **BARFIELD** seconded the motion.

STRAHL The staff comments includes what the applicant proposed last week.

BISHOP The staff language says no protest? I am sorry. I would amend my motion to include the petition for future water and sewer, rather than the no protest petition.

**BARFIELD withdraws second**

**BISHOP withdraws motion**

**MOTION:** To approve the plat with Item C, including a petition for future services rather than a protest petition.

**BISHOP** moved, **BARFIELD** seconded the motion.

**VOTE 3-9 fail. (GAROFALO, BISHOP, BARFIELD in favor motion)**

**MOTION:** To approve application per staff comments including the no protest feature as opposed to the petitions.

**WARREN** moved, **MITCHELL** seconded the motion.

DUNLAP We are about to approve a motion that implies that the City has the ability to do whatever they want outside of their district; in the County, and the County has already approved what was originally requested. I disagree with that.

BISHOP Is this within a three-mile area? Does this go before the City Council and County Commission?

STRAHL Yes, it does.

WARREN I tend to agree with Mr. Dunlap, except in this case, through negotiation, the applicant has come forward and fully accepted and agreed to the no protest agreement.

MCKAY Mr. Warren, in your motion, I think if you would add in there "that at the time the City approaches this to be annexed." They can annex that tomorrow if they want to?

MILLER It would be an island annexation that would require approval from the County Commission, but theoretically it can be done.

MCKAY All I am saying, that by the time the City gets to this piece of property then....

WARREN My motion to activate the no petition protest, the land would have to be annexed?

MARNELL It would be a unilateral annexation.

MITCHELL I do agree with the motion, but not a unilateral annexation.

MARNELL What Mr. Dunlap was concerned with was that the City could go out and do an island annexation which means they are not adjacent to it, but a unilateral they have to be adjacent to it.

MITCHELL I agree with the motion on the basis that it would not be a unilateral annexation.

MARNELL What he is attempting to say is that the City can't jump the gun. They have to wait until they grow up next to it, which is unilateral annexation.

MILLER There are unilateral and there are requested annexations, so if you leave it with unilateral, if for some reason the homeowners wanted to be annexed then if they asked to be annexed then your motion would prohibit that action from occurring because it is not a unilateral. I think from a practical standpoint, even though theoretically it is possible to island annex it, I think it would be highly unlikely that an island annexation would occur. So if you leave it that way, then I think you have the same thing you are after.

WARREN I think my original motion would prohibit the City from doing this until they are annexed.

#### **TAPE CHANGE**

**MOTION:** To accept staff recommendation, Subdivision recommendations, and including the fact that it is a no protest agreement as opposed to a petition on the sewage and that those petitions can't be executed until the subdivision is annexed.

**WARREN** moved, **MITCHELL** seconded the motion, and it carried (11-1) **BISHOP** opposed.

#### **2-3. SUB2003-113- One-Step Final Plat – REGENCY LAKES COMMERCIAL SECOND ADDITION, located on the northwest corner of 21<sup>st</sup> Street North and Greenwich Road.**

- A. Petitions have been provided with Regency Lakes Commercial Addition for water, sewer, drainage and traffic improvements. **City Engineering** has requested new guarantees.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning



Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan has been approved.**
- D. **Traffic Engineering** has requested the submittal of a traffic study to determine required traffic improvements prior to scheduling of the plat for City Council.
- E. **Traffic Engineering** needs to comment on the access controls. The plat denotes four openings along both 21st St. North and Greenwich in accordance with the proposed CUP amendment. **The access controls are approved subject to verification from the Traffic Study of no adverse impact.**
- F. The joint access opening between Lots 1 and 2 shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The Access Management Regulations require an additional 25-ft x 25-ft corner clip at the intersection corner.
- H. A covenant shall be submitted regarding Reserve A platted for private drive purposes, which sets forth ownership and maintenance of the private drive, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- I. **City Fire Department** has requested that the private drive be a 20-foot wide hard paved surface with no parking and include a turnaround or extension to another access point.
- J. The existing bike path along the east property line should be denoted within a right-of-way or public access easement.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- M. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- O. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- P. In accordance with the CUP Amendment, a 75-ft setback is required along the west line of Lot 12.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.

- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy requests additional easements.
- Z. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **MCKAY** seconded the motion, and it carried (12-0).

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**2-4. SUB2003-114– One-Step Final Plat – AVALON PARK SECOND ADDITION, located on the north side of 37<sup>th</sup> Street North and on the east side of Tyler Road.**

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. The drainage plan needs to be reviewed. A drainage guarantee is needed.
- E. If any drainage will be directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their agreement to accept such drainage.
- F. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. In accordance with the zone change the applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property and a center turn lane. The developer shall guarantee a 6¼ percent share of cost for the intersection signalization at Tyler Road and 37<sup>th</sup> St. North. The costs of the center turn lane along 37<sup>th</sup> North shall be shared with the development to the south.
- G. **Traffic Engineering** needs to comment on the access controls. The plat proposes three access openings along 37<sup>th</sup> St. North. Distances should be shown for all segments of access control. Traffic Engineering has approved three openings spaced 200 feet apart with a cross-lot access agreement. The center opening shall be allowed full turning movements and the other two openings are limited to right-turns in/out.
- H. The applicant is advised the right-of-way width for the cul-de-sac may be reduced to 58 feet.
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of Pepper Ridge.
- J. The Applicant shall provide for paved access of 37<sup>th</sup> St. North extending from the nearest paved segment across the entire 37<sup>th</sup> St frontage.
- K. It is recommended that Reserve B be extended to Pepper Ridge by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. **GIS** needs to comment on the plat's street names. Havenhurst Court shall be denoted as Havenhurst Ct.
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, he applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy, Aquila and SBC request additional easements.**
- W. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **SUNQUIST** seconded the motion, and it carried (11-0).

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**2-5. SUB2003-115-- One-Step Final Plat -- MEADOWBROOK ADDITION, located on the south side of 23<sup>rd</sup> Street South and west side of 295<sup>th</sup> Street West.**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A flood study is needed with encroachment routine and hydrology. DWR permits are needed. The Applicant will need to submit letter to FEMA for map revision to reflect the change in flood plain. The drainage plan needs to address offsite drainage coming in from the west and from the south, as well as terraces. Additional drainage easements or floodway reserve may be required. Minimum pads are needed based on flood study and drainage plan.**
- D. The floodplain should be covered by a floodway reserve agreement. The plat's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- E. **County Engineering** needs to comment on the access controls. The plat denotes six openings along 23rd St. South and five openings along 295th St. West. **Complete access control is required along 23<sup>rd</sup> St. South for Lot 5, Block 1 and Lot 32, Block 1. Additional access controls need to be determined upon discussion with County Engineering prior to MAPC meeting. County Engineering has approved the proposed access Controls.**
- F. In accordance with Access Management Regulations, complete access control is required for arterials intersecting with collectors/local streets. Complete access control of 75 feet is needed along Brook Meadow Drive from 23rd St. South.
- G. A corner clip is needed at the intersection.
- H. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- I. A covenant shall be submitted regarding Reserve A platted for private drive purposes, which sets forth ownership and maintenance of the private drive, and future reversionary rights of the reserve to the lots benefiting from the reserve.
- J. The applicant shall guarantee the installation of the proposed streets. Cul-de-sacs will require 36' wide rock streets.
- K. The Applicant has platted a contingent dedication of street right-of-way extending to the west and south property line. On the final plat tracing, the contingent dedications of right-of-way need to be referenced in the plat's text. The language should

state that "the contingent street dedications are hereby contingently dedicated as street right-of-way to become effective upon the platting of any adjacent subdivision having a street connecting thereto. The costs of constructing said street, are to be borne by the person(s) or agency that owns said adjacent subdivision."

- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA - NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- M. **County Fire Department** needs to comment on the street length of Deer Wood Circle (1,400 feet). The Subdivision Regulations limit rural cul-de-sacs to 1,200 feet in length unless a stub street connection or contingent street dedication is provided for future access to adjoining tracts. **The street length is approved.**
- N. The signature line for the County Commissioners Chairman needs to reference "Tim R. Norton".
- O. **GIS** needs to comment on the plat's street names. **GIS has requested that the street names be revised to "Deerwood Cir" and "Brookmeadow Dr".**
- P. For lots fronting on cul-de-sacs, the lot frontage is required to be 50% of the required lot width (200 feet). Lot 15, Block 1 does not meet this 100-ft frontage requirement. **A modification needs to be approved by MAPC.**
- Q. **The Subdivision Committee requested the platting of internal utility easements to serve future sewer and water extensions.**
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **GAROFALO** seconded the motion, and it carried (13-0).

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**2-6. SUB2003-116- One-Step Final Plat - REMINGTON PLACE THIRD ADDITION, located south of 21<sup>st</sup> Street North, east of Webb Road.**

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. The applicant shall contact **Debt Management** regarding the submission of a respread agreement for special assessments due to the lot reconfiguration.

- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The applicant shall guarantee the paving of the proposed interior streets. For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard.
- F. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- H. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- I. **Traffic Engineering** needs to comment on the parking easements within the Reserves. The Subdivision Regulations requires such easements to be at least 20-feet deep and no wider than 50 feet. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements. **The parking easements are approved with the exception of the 20' x 93' easement within Reserve C.**
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. **City Fire Department** needs to comment on the street length of Cranbrook (1,750 feet). The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless an emergency access easement is proposed. MAPD recommends a street stub extending to the east. **City Fire Department has requested a 35-ft roadway width at the street entrance.**
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The Subdivision Regulations permit a 20-ft setback along 32-ft streets. However, if not platted the standard 25-ft setback as specified in the Zoning Code will apply.
- O. **GIS** needs to comment on the plat's street names. **Rockhill and Chelsea need to be replaced with a new street name. Cranbrook Court needs to be replaced with Cranbrook Cir.**
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC and Westar Energy request additional easements.**
- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **GAROFALO** seconded the motion, and it carried (11-0).

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**2-7. SUB2003-109– One-Step Final Plat – DUKE ADDITION, located on the south side of 47<sup>th</sup> Street South and west of 135<sup>th</sup> Street West.**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. City Water and Sewer Department requests a petition for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed.**
- F. The plat denotes one opening along 47th St. South. **The access controls have been approved.**
- G. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)
- H. County Engineering has requested a 60-ft half-street right-of-way width along 47<sup>th</sup> St. South. The 25-ft right-of-way dedication referenced in the plat's text shall be deleted.
- I. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat and reference Carlos Mayans, Mayor and Karen Schofield, City Clerk.
- J. The MAPC signature block needs to reference "John L. Schlegel, Secretary" and "Ronald L. Marnell, Chair".
- K. The final plat tracing shall be submitted with a revised name as an Addition now within Sedgwick County exists with the name "Duke's Addition". It is recommended that a greater name distinction be created by adding a first name or initial.
- L. The north property line shall be denoted with a bold line.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. SBC has requested additional easements.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **GAROFALO** seconded the motion, and it carried (11-0).

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**2-8. DED2003-21 – Dedication of Access Control, for property located on the southeast corner of Central and Baehr.**

**OWNER/APPLICANT:** Dan Warren, 607 N. Doris, Wichita, KS 67212; and Jerry Warren 619 N. Doris, Wichita, KS 67212

**AGENT/SURVEYOR:** N/A

**LEGAL DESCRIPTION:** Lots 23 and 24, Block 1, Orchard Park Addition, Wichita, Sedgwick County, Kansas.

**PURPOSE OF DEDICATION:** This Dedication is a requirement of a zoning case (Case No. ZON 2003-30) for complete access control, except for one opening, along Central (aligned with the Baehr intersection on the north side of Central).

**STAFF RECOMMENDATION:** Accept the Dedication.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **GAROFALO** seconded the motion, and it carried (11-0).

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**3-1. VAC2003-52 – Request to Reduce Platted Front-building Setback, located north of Killarney Court and east of Rock Road.**

**OWNER/APPLICANT:** Johnny & Marjorie Stevens

**AGENT:** MKEC Engineering Consultants Inc., c/o Gene Rath

**LEGAL DESCRIPTION:** Vacate a portion of the platted 40-foot front yard setback as recorded on Lot 3, Block 1, First Addition to Vickridge, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located east of Rock Road, midway between Central Avenue and 13<sup>th</sup> Street North, more specifically east of the Killarney Court – Rock Road intersection, 8120 Killarney Court.

**REASON FOR REQUEST:** Proposed garage expansion will encroach into the platted setback.

**CURRENT ZONING:** Subject property and all adjacent properties are zoned "SF-5" Single-Family Residential.

The applicant is requesting vacation of a portion of the platted 40-foot front yard setback. A proposed expansion of the existing garage will encroach approximately 10-feet at its deepest point into the platted 40-foot setback. The UZC's standard for a front yard setback for the "SF-5" zoning district is 25-feet. Nine of the lots in the subdivision (all on Killarney Court, a cul-de-sac) have 40-foot front setbacks; the remaining twelve lots have 30-foot setbacks. The applicant has provided a letter from the Vickridge Homeowners Association, approving the requested vacation. The First Addition to Vickridge was recorded 04-15-1957.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties Planning Staff recommends approval to vacate only that portion of the platted 40-foot setback as described in a legal description.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time October 2, 2003 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback within a described portion and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted described in the petition within a described portion should be approved with conditions:
1. Vacate only that portion of the platted setback as described in the legal description, not to exceed 10-feet at its deepest point as shown on a site plan on 8 ½ inch x 11 inch paper.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  3. All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted setback as described in the legal description, not to exceed 10-feet at its deepest point, as shown on a site plan on 8 ½ inch x 11 inch paper.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **COULTER** seconded the motion, and it carried (13-0).

- 4a. **Case No.: CUP2003-51 DP217 Amendment #1 (Associated with ZON2003-49)** – Wesley Medical Center c/o Tom Ramsey (owner/applicant); Jay Russell (contract purchaser); Baughman Company c/o Terry Smythe and Trammell Crow Company c/o Kris hall (agents) Request Amendment to the Wesley West Community Unit Plan on property described as;

Lot 1, Block 1 and Reserve A, Wesley West Addition to Wichita, Sedgwick County, Kansas. Generally located North of 13<sup>th</sup> Street North, 1/4 mile east of Tyler Road.

and

- 4b. **Case No.: ZON2003-49 (Associated with CUP2003-51 DP217 Amendment #1)** - Wesley Medical Center c/o Tom Ramsey (owner/applicant); Jay Russell (contract purchaser); Baughman Company c/o Terry Smythe and Trammell Crow Company c/o Kris hall (agents) Request Zone change from "B" Multi-family Residential and "LC" Limited Commercial to "SF-5" Single-Family Residential on property described as;

Lot 1, Block 1, and Reserve "A", Wesley West Addition to Wichita, Sedgwick County, Kansas, EXCEPT that part of said Lot 1 and said Reserve "A" described as follows: Beginning at a point on the west line of Lot 1, Block 1, in said Wesley West Addition, said point being the NE corner of Lot 4, Block 1, Northwest Village to Wichita, Sedgwick County, Kansas; thence S01°32'08"W along the west line of Lot 1, Block 1, in said Wesley West Addition, 188.72 feet to the most westerly SW corner of Lot 1, Block 1, in said Wesley West Addition, said SW corner also being the NW corner of Lot 1, Block 1, Northwest Village 5th Addition to Wichita, Sedgwick County, Kansas; thence S88°02'01"E along the south line of Lot 1, Block 1, in said Wesley West Addition, 505.39 feet to a deflection corner in said south line, said deflection corner also being the NE corner of Lot 1, Block 1, in said Northwest Village 5th Addition; thence S01°57'59"W along the south line of Lot 1, Block 1, in said Wesley West Addition, 450.40 feet to the most southerly SW corner of Lot 1, Block 1, in said Wesley West Addition, said SW corner also being the SE corner of Lot 1, Block 1, in said Northwest Village 5th Addition; thence S88°02'01"E along the south line of Lot 1, Block 1, and Reserve "A", in said Wesley West Addition, 818.00 feet to the SE corner of said Reserve "A"; thence N01°32'08"E along the east line of said Reserve "A", 115.00 feet to the SE corner of Nantucket as dedicated in said Wesley West Addition; thence westerly along the south line of said Nantucket, 30.00 feet to the SW corner of said Nantucket; thence northerly along the west line of said Nantucket, 90.00 feet to the NW corner of said Nantucket; thence easterly along the north line of said Nantucket, 30.00 feet to the NE corner of said



Nantucket; thence N01°32'08"E along the east line of said Reserve "A", 434.13 feet to the intersection with the north line of Lot 4, Block 1, in said Northwest Village, as extended easterly, said intersection also being 262.00 feet south of the NE corner of said Reserve "A"; thence N88°02'01"W along said extended north line, 150.00 feet to a point on the west line of said Reserve "A", said point being 260.87 feet south of the NW corner of said Reserve "A"; thence continuing N88°02'01"W along said extended north line, 1170.00 feet to the point of beginning. Generally located North of 13<sup>th</sup> Street North, 1/4 mile east of Tyler Road.

**BACKGROUND:** The applicant requests an amendment to DP-217 Wesley West CUP and a zone change for 26.51 acres of the subject property from "B" Multi-Family and "LC" Limited Commercial to "SF-5" Single Family. The subject property is undeveloped and is located north of 13<sup>th</sup> Street North and one-quarter mile east of Tyler.

The surrounding area is characterized by commercial uses at the corner of 13<sup>th</sup> Street North and Tyler, Northwest High School, and low-density residential uses. The properties to the north and east are zoned "SF-5" Single Family and are developed with single-family residences. The properties to the west are zoned "GO" General Office, "LC" Limited Commercial, and "MF-29" Multi-Family and are developed with a hospital, a shopping center, and duplexes, respectively. The property to the south is zoned "SF-5" Single Family and is developed with Northwest High School.

The Wesley West CUP currently is 40.67 acres in size and permits medical and related uses. The applicant proposes to remove 26.51 acres from the CUP and develop it with single-family residences with 14.16 acres remaining in the CUP to be developed with medical and related uses. The applicant has submitted the English Country Gardens Addition, which proposes to subdivide the 26.51 acres into 101 single-family lots accessed via adjacent residential neighborhoods along Thurman and Suncrest. The applicant proposes to amend the CUP to eliminate the masonry wall requirement along the east property line and to eliminate the requirement for approval of a site circulation plan. The applicant also proposes to increase building coverage from 17.9% to 30% and the floor area ratio from 17.9% to 35%. Finally, the applicant proposes to increase building height from 35 feet to 45 feet.

To maintain compatibility between medical and related uses and adjacent low-density residential uses, planning staff recommends that the masonry wall continue to be required along the east property line of the property remaining within the CUP. To maintain traffic safety in an already heavily traveled area, planning staff recommends that approval of a site circulation plan continue to be required. Since the square footage for medical and related uses decreases significantly due to the conversion of the majority of the property to single family use, the overall traffic to generated by the site is expected to decrease slightly; therefore, planning staff recommends allowing the proposed increases in building coverage and floor area ratio.

**CASE HISTORY:** A request to rezone (Z-2276) the subject property from "AA" One Family (now "SF-5") to "A" Two Family (now "TF-3"), "RB" Four Family (now "MF-29"), "B" Multi-Family, and "LC" Light Commercial and a proposal to create DP-114 Northwest Village 4<sup>th</sup> CUP were denied on January 5, 1982. A portion of the subject property was rezoned from "AA" One Family (now "SF-5") to "BB" Office (now "GO") on December 7, 1990. The remainder of the subject property was rezoned from "AA" One Family (now "SF-5") to "B" Multi-Family and "LC" Light Commercial and DP-217 Wesley West CUP was created on July 17, 1995. The subject property is platted as the Wesley West Addition, which was recorded June 30, 1995.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"	Single-family residences
SOUTH: "SF-5"	Northwest High School
EAST: "SF-5"	Single-family residences
WEST: "GO", "LC" & "MF-29"	Hospital, shopping center, duplexes

**PUBLIC SERVICES:** The single family residential portion of the subject property is proposed to access Thurman and Suncrest. The proposed 101 residential lots are estimated to generate 1,000 trips per day with approximately 100 of those trips occurring in the peak hour. Assuming the traffic is split between Thurman and Suncrest, the proposed residential subdivision would result in less than one additional car per minute (on average) traveling through adjoining subdivisions to access nearby thoroughfares. The medical and related uses portion of the subject property is permitted three access points to 13<sup>th</sup> Street North, a four/five lane arterial street. Current traffic volumes on 13<sup>th</sup> Street North are approximately 16,000 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on 13<sup>th</sup> Street North will increase to 24,000 vehicles per day and recommends that the street be widened to five lanes. The applicant has guaranteed the construction of a center turn lane and an accel/decel lane at such time as the property is developed with medical and related uses.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Office" and "High Density Residential" development. However, the CUP does not permit high-density residential development except for a 120 unit assisted living center. The proposed single-family residential use is a lower intensity residential use than recognized as appropriate by the Land Use Guide, and the proposed medical and related uses are consistent with the "Office" designation of the Land Use Guide. Therefore, the request conforms with the Land Use Guide of the Comprehensive Plan.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to replatting the portion to be rezoned to "SF-5" within one year and subject to the following conditions:

1. General Provision #8 shall be modified to require a masonry wall along the east property line of Parcel 1.
2. General Provision #14 shall be modified to add, "Approval of a site circulation plan by the Planning Director is required for each phase of construction prior to the issuance of a building permit."
3. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

4. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
5. The applicant shall submit four 24" x 36" folded copies and one 11" x 17" copy of the CUP to the Metropolitan Area Planning Department within 60 days after approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by commercial uses at the corner of 13<sup>th</sup> Street North and Tyler, Northwest High School, and low-density residential uses. The proposed residential zoning is in close proximity to existing low-density residential uses and zoning to the north and east, and the proposed medical and related use area is in close proximity to existing commercial uses and zoning to the west. Therefore, the request is consistent with the zoning, uses, and character of the neighborhood.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, and the additional recommended provisions of the CUP should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Office" and "High Density Residential" development. However, the CUP does not permit high-density residential development except for a 120 unit assisted living center. The proposed single-family residential use is a lower intensity residential use than recognized as appropriate by the Land Use Guide, and the proposed medical and related uses are consistent with the "Office" designation of the Land Use Guide. Therefore, the request conforms with the Land Use Guide of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

DALE MILLER Planning staff presented the staff report.

DUNLAP Dale, does Suncrest Street go clear out to Ridge Road?

MILLER I don't know.

DUNLAP The wall we are talking about along Evergreen, on the backside of that?

MILLER The wall is along the east side.

DUNLAP We are not talking about a wall over on the west side then?

MILLER There would be one down here but not here (point to an aerial map).

DUNLAP On the east side, you are putting single-family residences here backing up to single-family residences, why do we need a wall?

MILLER I think the applicant can answer that better than I.

MCKAY I need to declare a conflict of interest, Wesley Medical Center is one of my tenants, so I will step down from the bench.

BAUGHMAN COMPANY, TERRY SMYTHE, What we are doing is eliminating 26 acres of multiple family zoning in "LC," and taking the whole north part of that C.U.P. out of the C.U.P., and converting it into single-family lots. The wall requirement that we are talking about, and that we are in agreement with, separates the new C.U.P. on the south from the single-family. The access points are a platting issue and not a C.U.P. issue. The issue is are you going to allow us to take 26 acres of multi-family zoning out, and replace it with single-family, surrounded by single-family? That is really the issue of the C.U.P. The street access is to Thurman, down towards 13<sup>th</sup> Street and to Suncrest. Suncrest is two parallel 50-foot right-of-ways on both sides of that pipeline, so there is an enormous amount of capacity on Suncrest that takes you out towards the east. So we don't feel putting single-family next to single-family is going to overload any kind of systems out, there particularly traffic.

Again, this is in-fill. This is one of those areas that 7-8 years ago we thought we could put a big hospital out there with the helicopters, the ambulances, and sirens and all that stuff, and the hospital has changed a lot, and now we are down to single-family, and wish to put in single-family on the north end.

PAM STANBERRY, C.E.O. WESLEY REHAP HOSPITAL, 8338 W. 13<sup>th</sup>, 67212 the adjoining property. We are in support as Wesley Rehab hospital it is a joint venture partner of Wesley Medical Center, but I want clarification that there will be a mortar wall to the north of our property; to the south of the single-family homes, because of the traffic concerns for children cutting through the neighborhoods, and I have not heard the exact terminology that I understand that there will be a mortar wall there. We have a lot of deliveries that go through. We have hazardous materials coming out of our area, and I want to be sure for the safety of the children coming across from Northwest High School cutting through our lot, and going to their single-family homes. I want to be sure that we make that as safe as we can for our community.

MARNELL The prior speaker said that was in fact going to be a masonry wall.

CAROL HILBERT, 1536 Glenhurst, Wichita, KS 67212 I would like to say that Wesley has changed their mind many, many, times, and they have always made sure that the development to the west, to the north, and east had no access to this area because, as they said before, they were going to put a hospital there. Suncrest Street is not 50 foot of pavement, two-lanes; it is 32 feet of pavement; that is single-lane traffic with people parking on both sides. Only the south end of Suncrest Street is the only one that has access to Holland to go to 13<sup>th</sup> Street. I continually ask you people to require Wesley to have a road to the south out of this area. It seems like they want to build, and they are dumping all the traffic on us.

SMYTHE There is 50 foot of right-of-way along Suncrest and not pavement, so on both the north and south side of the pipeline there is 50-foot of dedicated right-of-way today. It is probably a two-lane road on both sides, and some people park near their houses.

BISHOP Do you know if there is a prohibition against putting a traffic light that close to Tyler Road?

MILLER I don't know, based on other locations around town, like Rock Road, apparently it is possible to put it within fairly close proximity.

BISHOP Do you know why this was not going to go to the D.A.B.?

MILLER We did not think SF-5 would be controversial, and we did not think single-family would be controversial. It is a downzoning.

JOHNSON Since it is zoned now, there is not an opening at 13<sup>th</sup> Street, and if it were multi-family or "LC", that same traffic would go down the same street.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (11-1-1) **BISHOP** opposed, **MCKAY** abstains.

5. **Case No.: CON2003-38** – Rolf Patterson (owner); Kimberly L. Le (applicant) Request Conditional Use for car sales on property zoned "LC" Limited Commercial on property described as;

Lots 76, 78, 80, 82, 84, 86 and 88, on Central Avenue, in Stite's Bros 2nd Addition to Wichita, Sedgwick County, Kansas.  
Generally located at the northeast corner of Piatt and Central (2014 E. Central)

**BACKGROUND:** The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on a 0.50-acre platted tract located at the northeast corner of Central and Piatt; 2014 E. Central, Lots 76-88, even, Stilies Brothers 2<sup>nd</sup> Addition. The subject property is zoned "LC" Limited Commercial and is developed with 5 bay door garage/office, used for vehicle repair, and a paved parking area with a chain link fence around the perimeter of the site. The vehicle repair shop, permitted by right, is leaving the site. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" Limited Commercial zoning district. The applicant has submitted a site plan.

The character of the neighborhood is that of local serving commercial uses along the Central corridor with residential uses located both north and south of the Central commercial corridor. The zoning of the properties to the south and east is "LC" Limited Commercial. The properties to the south across Central are developed with retail businesses, office, a vehicle repair shop and a vehicle body repair shop. The property abutting to the east is developed as office, with retail and office further east across Ash Street. There is a Conditional Use for a car lot, CON03-01, 1 ½ blocks east of the site. This site has never developed as a car lot. Zoning of the properties to the north is "TF-3" Two-Family and "B" Multi-family. These properties to the north across the paved alley are developed with single-family residences. The properties to the west across Piatt are zoned "GC" General Commercial and "B" Multi-family. The Westar Electrical Utility office/contractor yard complex, dominates this area, extending north from Central, past the next block to the railroad tracks and west from Piatt, over a vacated block of Minnesota Avenue to IH-135. The complex wraps around an isolated single-family residence on Central.

The site plan shows a 344 square foot sales office, a 4,032 square foot garage/storage area and 11,857 square feet of vehicle display area. Included in this display area is a proposed outdoor storage yard. The site plan shows 11 employee/customer parking spaces, which appears to meets the Unified Zoning Code parking requirement. The site plan proposes landscaped street yard primarily in the Central and Piatt ROW, as well as an undetermined amount within the site along Central, within the interior and on the north side. The site plan proposes a six-foot high semi-solid fencing along the north property line merging with the wall of the garage wall. The semi-solid screening does not meet the Unified Zoning Code screening requirement. The site plan shows no lights, no trash receptacle and no proposed or existing signage.

The site currently has 5 existing entrances/exits (entrances); 2 on Piatt and 3 on Central. The site plan shows the 3 entrances that are closest to the Piatt – Central intersection as being closed, leaving the two farthest entrances from the intersection open. The site plan shows the closed entrances to be seeded with grass within the ROWs. The applicant shares the eastern entrance with the abutting office and proposes improvements to it including an island/median splitting the current uninterrupted 62-foot wide entrance.

**CASE HISTORY:** The subject property is platted as Lots 76-88, Stiles Brothers 2nd Addition, was recorded January 10, 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" Single-family residence  
"B"

SOUTH:	"LC"	Retail, office, vehicle repair & vehicle body repair
EAST:	"LC"	Office, retail and undeveloped car lot
WEST:	"GC"	Single-family residence, utility contractor yard

**PUBLIC SERVICES:** This subject property has access to Central, a five-lane arterial street with current traffic volumes of approximately 17,300 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Central will increase slightly to approximately 17,800 vehicles per day and recommends that Central remain a five-lane arterial street. The proposed development would generate less than 100 trips in the peak hour; therefore, the City's Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. Municipal water and sewer services are currently provided to the subject property. The sewer is located in the alley abutting the north side of the site.

**CONFORMANCE TO PLANS/POLICIES:** The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The subject property is over a mile from the central business district and is not considered part of the CBD fringe. Another car sale lot, CON03-01, is located 1 block east of the site and was first and is currently the only site for car sales approved on Central east of IH-135. This site was vacant when approved and remains undeveloped. The nearest active car sale lot is located eight blocks to the west on the other side of I-135 and within the CBD fringe.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. The short term benefit for the area by allowing the Conditional Use for a car sales lot on the site; it will keep the property in use, with conditions attached to it that would improve the property. The long-term revitalization benefit to the area by allowing the Conditional Use for a car sales lot; it could encourage further investment into the property for improvements for the Conditional Use or another use. Approval of car sales lots has a tendency to attract more of these request/applications to the area where they are approved and establishing conditions that improve the property and encourage future investment is critical for the site and neighborhood.

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, with conditions. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, but there is another vehicle sales lot existing in the immediate vicinity. The MAPC has generally approved car sales lots on sites similar to this one, with conditions for development that would minimize impact on the area and improve the property of the Conditional Use.

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups.
2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards. The site will be developed according to the revised site plan.
4. The applicant shall install and maintain landscaping in accordance with the revised landscape plan submitted with the revised site plan. The current landscape plan does not take full advantage of landscaping opportunities on the site. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits.
5. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
7. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair or detail must be on an approved all weather surface.
8. No amplification system shall be permitted.
9. No outside storage of salvaged vehicles, vehicles waiting for repair, or parts shall be permitted in association with this use.
10. The lighting standards of Section IV -B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
11. The applicant shall erect and maintain solid six-foot screening along the northern property lines that is adjacent to residential zoning and the existing residential development. The applicant shall be allowed to use the solid north wall of the garage as screening as long as no doors or windows open up onto the residential property across the alley, north of the site.
12. The applicant shall guarantee the closure of the Central and Piatt entrances that are closest to the intersection and continue the curb and gutter according to City standards. Dedication of access control closing the Central and Piatt entrances that are closest to the intersection by separate instrument shall be submitted to Staff for recording.

13. Dedicate 2 ½ -feet of ROW to the alley and any needed ROW for Central and Piatt, per the recommendation of the Public Works Engineer.
14. The applicant shall obtain all permits necessary to make the required site and landscaping improvements; all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. No selling of cars shall be allowed until all permits and improvements to the site have been made.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of a local serving commercial corridor with low -density residential uses located behind the commercial businesses, with the exception being the Weststar office/contractors yard west of the site. Most of the property along Central is zoned "LC" Limited Commercial, with residential zoning in areas north and south of Central. There are several car repair shops in the immediate area that have vehicles parked outside waiting for repair or pick up. This use is less frequent east of Grove on Central.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for the commercial uses to which it has been restricted, including its current use as a site for vehicle repair.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the Conditional Use, will have a minimum of negative effect on the area and at best improve the property, with the application of additional access control, landscaping, screening and the other conditions on the site.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. A Conditional Use for a car sales lot on this site does not meet the Commercial Locational criteria, but it may possibly met the criteria for revitalization by encouraging investment and upgrading to property which could encourage further investment and the continued use of property, rather than vacancy and decline.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access control onto Central is an improvement as is the dedication of ROW to the alley, to cover the sewer line located in it, and any additional dedication required by the Public Works Engineer.

BILL LONGNECKER Planning staff, presented the staff report.

BARFIELD Are you just requesting that the north fence there be removed and replaced with solid screening?

LONGNECKER It would have to have solid screening per the UZC.

MITCHELL What would be the use of the 2 1/2 feet being requested for additional alley right-of-way?

LONGNECKER There is sewer in that alley, and the current standard for utility easements is 20 feet. This alley essential has dual purpose as public right-of-way and an easement. We are requiring an additional 2 1/2 feet along the applicant's north side of his property to get the easement up 17 1/2 foot which would get us within 2 1/2 foot of the standard 20 foot utility easement.

MITCHELL Is the wall that is east of the chain link fence within that 2 1/2 feet?

LONGNECKER That I don't know. It appears that is approximately on that property line.

MITCHELL Are you saying that if the wall is there, you would not request the 2 1/2 feet where the wall is located?

LONGNECKER My experience with Public Works is that they don't create encroachments.

MITCHELL Only the portion where the chain link fence is located would be asked to give the 2 1/2 right-of-way.

#### **TAPE CHANGE**

LONGNECKER Unless we can find out prior to any final resolution of this Conditional Use.

MITCHELL It would be my recommendation that we do not accept that requirement.

WARREN You said 17 1/2 foot, is that from the centerline of the alley meaning that you are not taking anything off the other property line?

LONGNECKER There is no activity on the north property's south line, where it abuts the alley that would allow us to ask for that additional 2 1/2 feet.

WARREN But you wouldn't need it. If you have 17 1/2 foot from the center of the property line to south.

LONGNECKER We have 15 feet currently. The alley is a 15-foot right-of-way; we are asking for an additional 2 1/2 feet. This is a 15-foot alley; there is 7 1/2 feet on either side center-line.

WARREN Do you know where that sewer is at in relation to that alley? It looks like a manhole right in the middle of it.

LONGNECKER Approximately in the middle. Looking at the utility maps it appears to be in the center of the alley.

HENTZEN Are you asking for 2 1/2 feet where the building is sitting? It appears to me that the building is sitting right directly north, and probably on a property line. Are you asking for dedication of 2 1/2 feet under that building?

LONGNECKER We do not create encroachments with dedications for easements or right-of-way. However, it appears that it is approximately on the property line, and the only way to conform that would be with a survey. The applicant does have a site plan which is drawn to scale, and confirmation of the location of that building to the property line would come from the applicant.

HENTZEN Are you asking for 2 1/2 feet?

LONGNECKER We are asking for 2 1/2 feet of dedication for easement on the north side of the applicant's property with the understanding that we are not going to create an encroachment into that building with that dedication.

MILLER Public Works has a standard distance that they ask for, and if it turns out that the building would be sitting inside that 2 1/2 feet they would not ask for that 2 1/2 feet so they would not have the easement underneath the building or cause the building to be non-confirming.

DUNLAP The fence would have to be moved if we get the easement, but if we don't approve the easement and don't accept it. Can they weave that stuff in the fence and leave this fence and cause a solid screening that way? You know that flexible stuff thing that fits in a chain link?

LONGNECKER No, that would be a semi-solid screening. Fencing is allowed in an easement, a wall is not allowed in an easement.

DUNLAP But this fence has to come out and a different one has to go in?

LONGNECKER It would have to be solid screening unless this body would waive that requirement.

DUNLAP Which means it would have to go to Council.

MILLER They can put the wooden fence on the inside and meet that requirement.

DUNLAP But just weaving that stuff in the fence doesn't do it.

MILLER No.

WARREN Condition #4 states the current landscape plan does not take full advantage of landscaping opportunities on the site. The landscaping plan will be reviewed and approved by the Planning Director prior to issuance of any permits. That is pretty wide open. We have a landscape provision in the Zoning Ordinance, wouldn't that apply. You can say you have to landscape to satisfy the Director of Planning, I am concerned about that.

I am more concerned about Condition 13 about the dedicated 2 1/2 feet of right-of-way in that alley. Then you come along and say and any needed ROW for Central and Piatt, what are we talking about?

LONGNECKER Currently, there is 40-foot half street right-of-way along Central on both sides of the road, and I have asked Traffic Public Works Engineer if they need additional right-of-way at that point.

WARREN I don't think it is up to us to give Traffic Engineering or anybody else an open book to take whatever he wants. I don't think it is legal. As far as I am concerned, all of Condition #13 should be removed as a condition of approval. This statement about the landscaping plan does not take full advantage of landscaping opportunities on the site that is subjective.

MILLER They do not meet the Landscape Code that they would have to meet if we just leave it alone. So what we are doing is giving them an option to submit a plan that would be less than what is required, and the Director of Planning has the ability to waive those requirements, and he could then approve it without coming back.

WARREN If that is what it says and means, then I don't have any problem.

MARNELL Dale, why would you be recommending less than the Landscape Ordinance?

MILLER Because this Commission has asked us to be as flexible as possible whenever we can and we are trying to demonstrate that.

BARFIELD There are a couple of vehicles there right now, those would have to be removed?

LONGNECKER Right now there is a vehicle repair business in operation, and there is outside parking allowed for vehicle repair. Vehicles either waiting for repair or to be picked up is permitted on this, by right with this particular zoning. A car lot is not allowed outside storage of vehicles waiting for repair or salvage vehicles; it is a car sales lot. We have always separated salvage vehicles and vehicles waiting for repair as not allowed on a car sales lot. They have got to be inside because it is a car sales lot, not a vehicle repair lot.

BARFIELD They are going to convert this, but they are not going to be doing any repair work? It is just going to be a car sales lot?

LONGNECKER They can do repair inside. They do have a five bay garage that is currently set up for vehicle repair. They can make those repairs inside and they can bring the vehicles out to the outside display for sale.

BARFIELD If there is a vehicle waiting for pick-up, it has to be stored inside?

LONGNECKER If it were under repair, everything else would be car sales.

KIRK MILLER, 516 S. Market, Wichita, KS 67202 The only concern that we would have is the comment on Condition #13 about the right-of-way dedication. We have looked at the right-of-way from Piatt all the way to Hillside, and on Central it is 40 feet all the way through so we don't see the need for additional dedication at that point, plus I think that would hinder our site if we had to give additional right-of-way. Plus Piatt is already 60 feet, and that is pretty common out there. We would request approval without the Condition #13 dedications.

DUNLAP The proposed use is totally car sales; it is not going to be car sales and vehicle repairs, right?

KIRK MILLER The applicant is here they can probably answer that better than I could.

APPLICANT (away from podium) not able to hear.

DUNLAP Preparation of cars to be sold is what I am hearing.

KIRK MILLER Yes, preparation of cars to be sold.

HENTZEN With the present zoning can't they fix cars inside that building?

KIRK MILLER Yes, we can.

HENTZEN The applicants need to know that, but they can't have a bunch of cracked up cars parked out in the front of the building waiting to be fixed, but they can do some fixing inside the building.

GAROFALO On Condition #13 you are objection to the dedication of the 2 1/2 feet in the alley?

KIRK MILLER We go along with the staff as far as the building encroaching. If that building encroaches we would not want to dedicate that. But we do have a problem with the Piatt and Central dedication.

GAROFALO You wouldn't care if the 2-1/2 feet were included?

KIRK MILLER As far as we are concerned that 2 1/2 feet dedication is fine for the alley.

ROY E, BOBBITT, 511 N ASH, WICHITA, KS 67214 I just made improvements on my property; I put up a fence here and here. People are beginning to improve this section of the neighborhood. I don't mind a car lot being here, but my concern is for the long term. Old cars being parked there after they use it, and make their money and move on and they rent it to someone else, will the same deal apply to the next renters? I have talked to people in the neighborhood, and according to the rules here, you are just concerned with the people who own property in a 200 feet radius. I believe if the wrong individuals get in here, there will be thefts, stolen cars. It will spill over on everybody's property outside of the 200 feet radius. My concern is the long term. At 13<sup>th</sup> and Hydraulic or Mosley and 13<sup>th</sup> at Bill's Cadillac, it is a dump of old cars of friends and neighbors who can't keep their cars on their property, and they let them put them there. Look at 17<sup>th</sup> and Grove, across from the fire station; there after these places are vacant, and they are close to a residential neighborhood they are a sore eye. It will be just a vacant lot. I am a first time homeowner, and I have learned that property is precious. Every square foot of my property is precious to me, and I use it. This, in the long term, there will be an empty lot going to waste with possibly people who rent will abuse it. I recommend that you deny this Conditional Use.

**MOTION:** To approve with the exception of Condition #13.

**MITCHELL** moved, **WARREN** seconded the motion.

GAROFALO Tell us again the 2 1/2 feet and the alley why is that being asked for.

LONGNECKER Because there is a zoning request, Public Works looks at this as an opportunity to acquire additional easement to get this particular section of alley, which is 15 wide and has sewer in it, up to the current standard of a 20-foot easement. Because the activity is confined to the south property we can only ask for half of what that 5 foot is, which is the 2 1/2 foot. What we are simply doing here is trying to get the 15-foot alley/easement up to the current standards of a 20-foot easement for City utilities.

**MOTION CARRIES:** 12-1 Bishop opposed.

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- 6a. **Case No.: CUP2003-50 DP78 Amendment #3 (Associated with ZON2003-48)** – Northwest Development Corp., Inc. c/o C. Bill Bachman (owner); Poe & Associates, c/o Kenny Hill (agent) Request Amendment to The Moorings Community Unit Plan on property described as;

and

- 6b. **Case No.: ZON2003-48 (Associated with CUP2003-50 DP78 Amendment #3)** - Northwest Development Corp., Inc. c/o C. Bill Bachman (owner); Poe & Associates, c/o Kenny Hill (agent) Request Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Beginning at the Southeast corner of Lot 1, Block 1, The Moorings 6th Addition to Wichita, Sedgwick County, Kansas; thence East 60.0 feet to a point on the East line of the Northeast Quarter of Section 25, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South at right angles to the last described course, on the East line of said Northeast Quarter, 810.0 feet more or less to a point; thence West 677.5 feet on the extension of the North line of Lot 1, Block 1, Fire Station 13 Addition to Wichita, Sedgwick County, Kansas, to the Northwest corner of said Fire Station 13 Addition; thence North, parallel to the East line of said Northeast Quarter, 810.0 feet more or less to a point; thence East at right angles to the last described course 617.5 feet to the point of beginning, subject to road right-of-way.

AND

Beginning at the Northeast corner of Lot 1, Block 1, Fire Station 13 Addition to Wichita, Sedgwick County, Kansas; thence East 377.5 feet, on the North line of said Lot 1 extended, to a point on the East line of the Northeast Quarter of Section 25, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence South 250.0 feet on the East line of said Northeast Quarter; thence West 377.5 feet to the Southeast corner of Lot 1, Block 1, in said Addition; thence North 250.0 feet to the point of beginning, subject to road right-of-way. Generally located on the northwest corner of 42<sup>nd</sup> Street North and Meridian

**BACKGROUND:** The applicant is requesting to amend Parcels 11 and 12 of DP-78 The Moorings to allow commercial development in place of residential use, and to rezone the parcels to "LC" Limited Commercial. Parcel 12 is located at the northwest corner of 42<sup>nd</sup> Street North and Meridian and is 1.85± acres. Parcel 11 is located immediately to the north and is 12.02± acres. It is part of a large community unit plan of 245 gross acres (213 net acres) with 35 net acres proposed for commercial use and the balance of 177 net acres for residential use. To date, a small (0.52 net acre tract) has been developed with a small office, and 14 acres are developed with a church and fire station. Single-family/patio home development occupies the majority of the C.U.P., with two large parcels (35 acres) remaining undeveloped. Parcel 8, which is 1/6 mile to the north and is roughly eight acres, is undeveloped and zoned "LC."

The proposed amendment would allow all "LC" Limited Commercial uses except: cemetery; correctional placement residence; golf course; recycling collection station; car wash; construction sales and service; any industrial use; any agricultural use, any conditional use; taverns and drinking establishments; theaters, and bowling alleys. Recreation and entertainment, indoor, would be permitted only by separate C.U.P. amendment approval. No single use greater than 12,000 square feet in size except for a grocery store or drug store shall be permitted. Restaurants would not have drive-through windows located within 200 feet of residential zoning and order boards would not be audible from the residential property lines. No auto-serving uses, including but not limited to vehicle repair, limited, convenience stores with gas islands, service stations and car washes, would be permitted on Parcel 11. No overhead doors would be permitted within 150 feet of residential zoning or facing any residential zoning district.

Maximum building coverage is proposed as 30 percent, floor area ratio would be 0.35, and maximum building height would be 35 feet, except for 55 feet for residential structures or combined commercial/residential structures with upper stories for residential use. Perimeter setbacks would be 35 feet. C.U.P. requirements have been added for a concrete/masonry wall between the commercial tract and the adjacent residential tracts, architectural compatibility, landscaping, consistent lighting features, limited height and scale of signage, and pedestrian connectivity.

One additional access point on Meridian is requested.

A fire station has been constructed on the parcel to the west of Parcel 12. The area west of Parcel 11 is vacant but approved for single-family or patio homes. A church, Riverlawn Christian Church, is located to the south of Parcel 12 and a church, Northside Church of Christ, is located to the north of Parcel 11. The property east of Meridian is vacant. The surrounding area includes two single-family developments farther to the north of the application area. These are The Moorings and Harbor Isle. Three corners of the section line intersection with Meridian have eight acres of "LC" Limited Commercial zoning. The southwest corner is developed with Northside Church of Christ. A small office is located on a portion of the northwest corner. The southeast corner is vacant.

**CASE HISTORY:** The property is unplatted except for the northern edge of Parcel 11. It is included as right-of-way (Bachman Drive) on The Moorings Sixth Addition. All of the C.U.P. was platted except Parcels 11-15. A platting extension was granted until November 25, 1991. Then, a plat for the adjacent property to the northwest was filed in 1993 as The Moorings 8<sup>th</sup> Addition, but never completed and was closed in 1999. No corresponding action was taken to close the C.U.P., which therefore remains in effect. The area had a "Conditional Use" for a sand pit (CU-63) that has expired.

The Moorings was originally approved as a community unit plan in 1976. Amendment #1 was approved in 1982 and affected Parcel 6 by changing permitted uses from marina and clubhouse to residential. Amendment #2, approved April 4, 2002, divided Parcel 12 into two parcels and allowed the fire station to be constructed on the new Parcel 15.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"; "LC"  
SOUTH: "LC"  
EAST: "SF-5"; "LC"

Church, vacant, residential  
Church  
Vacant, single-family residential



WEST: "SF-5"

Fire station, vacant

**PUBLIC SERVICES:** Meridian is a five-lane arterial and 42<sup>nd</sup> Street North is a two-lane local street without curb and gutter. Meridian is considered a primary arterial, connecting Wichita with Valley Center. Traffic counts were for 2002 were unavailable. Average Daily Trips (ADTs) from I-235 to one-half mile north are projected to be 18,660 in 2030. The C.U.P. proposes three points of access onto Meridian. Bachman Street is one of the openings. A private drive opening is shown in the middle of Parcel 11 and a major opening is shown on the south edge of Parcel 11.

The proposed use could generate approximately 8,200 vehicles per day, or a peak volume of 820 vehicles during the peak hour if the entire acreage were developed with typical strip commercial shopping center types of uses. This would be sufficient traffic volume to warrant a traffic study for the requested amendment. Currently the street has been improved to four through lanes and one continuous center turn lane between I-235 and Key West Street. Accel/decel lanes already are constructed for Meridian at the intersections north of the application area at Key West Street and Milro Street.

Normal municipal water and sewer services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development. The adjacent property to the north and south is shown as "public/institutional", and the next tier of properties to the north and south on the west side of Meridian are shown as "commercial".

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan.

**Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The C.U.P. has added landscape, screening and buffering requirements on the west property line and will restrict lighting and intensity of commercial uses near residential districts.

**RECOMMENDATION:** Although the community unit plan has allowed residential use for Parcels 11 and 12 since 1976, it has remained unplatted and undeveloped. Commercial use was expected to cluster north of these parcels at the mile-line point on Meridian, which is where the vacant "LC" Parcel 8 is located. Another vacant commercial tract is located nearby at the northwest corner of the interchange of I-235 and Meridian. This site is approximately ¼ mile to the south. Churches and the fire station fill up the balance of the frontage on the west side of Meridian from I-235 to Key West Street. Two undeveloped low-density residential tracts remain to the west of Parcels 11 and 12 and on the property to the east. The C.U.P. has added provisions to improve separation with the residential properties. Based on these factors and the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2003-00048) to "LC" Limited Commercial;
- B. APPROVE the Community Unit Plan (DP-78) Amendment #3, subject to the following conditions:
  1. Transportation requirements:
    - a. A site plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
    - b. The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property.
    - c. A guarantee for signalization at the Meridian/Bachman intersection and/or at any drive access from the parcel shall be provided; with signalization being required if warranted by a traffic engineering study.
    - d. Access points shall be in conformance with the Access Management Policy.
  2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  4. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-78) includes special conditions for development on this property.
  6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area, Parcels 11 and 12, are part of a large community unit plan (DP-78 The Moorings Community Unit Plan) consisting of 245 gross acres (213 net acres). To date, a small (0.52 net acre tract) has been developed with a small office, and 14 acres are developed with a church and a fire station. Single-family and some patio homes development occupy the majority of the C.U.P., with two large parcels (35 acres) remaining undeveloped. Parcel 8, which is roughly eight acres, is undeveloped and zoned "LC". This tract is approximately 1/6 mile north of the subject tract. Additional "LC" property in the vicinity is located on the east side of Meridian across from Northside Church of Christ. Another "LC" property is located on the west side of Meridian between K-96 and the church located south of the C.U.P., Riverlawn Christian Church. The property immediately east of Parcels 11 and 12 is vacant and is zoned for single-family development as part of Harbor Isle.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property should be mitigated by the C.U.P. use restrictions and site development requirements for landscaping, screening, and lighting to buffer the commercial use from the single-family use and the requirements for internal site circulation and cross-lot circulation.
4. The length of time the subject property has remained vacant as zoned: The property has remained vacant with "SF-5" and approved for residential use as part of DP-78 The Moorings since 1976, but the property has not been platted except for the right-of-way for Bachman Drive on the northern edge of Parcel 11.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development, which is not in conformance with the zoning requested. The proposed use restrictions and site development requirements seek to follow commercial and residential objectives and locational guidelines of the *Comprehensive Plan*.
6. Impact of the proposed development on community facilities: The traffic increases from the development should be mitigated by the addition of accel/decel lanes and the possible addition of traffic signalization, if warranted. The spacing of the access points and streets may mitigate the need for signalization.

DONNA GOLTRY Planning staff presented the staff report.

KENNY HILL, POE AND ASSOCIATES, agent, The owner in this case wants to pursue commercial development on this property. There have been some questions about what kind of development he would like to see. He has suggested a bank, a restaurant like an Applebees, or Spangles, a hardware store, or a Quik-Shop.

There were two things that he had requested to change on the C.U.P. One is that a restaurant with drive-thru windows and order board be limited only when within 200 feet of the residential development that is located on the west side of the parcels, and no restrictions on drive-thru windows on the smaller parcel. The other change is to allow convenience stores with gas pump islands on Parcel 11.

BARFIELD If we approve this does it go to the City Council?

MILLER Yes.

**MOTION:** To approve subject to granting the requested change from the applicant regarding the drive-thru and the convenience stores on Parcel 11.

**WARREN** moved, **DUNLAP** seconded the motion.

BISHOP Was the recommendation to exclude convenience stores, gas pumps on Parcel 11--was that based on the type of retail, or is it based on traffic concern?

GOLTRY It was based on the proximity of residential development to the west.

GAROFALO I am not following the drive-thru request from the applicant.

GOLTRY The request was to eliminate the restriction on drive-thru windows within 200 feet of residential zoning, as recommended in the staff report. He is stating that he does not want to be restricted from locating drive-thru windows on the northern property line because the property to the north is a parking lot for a church and not developed with residences. The area across the street to the east is SF-5, but the applicant feels you have the street width that will provide some buffering and there will be a landscaped street yard along Meridian. So, you won't have drive-thru totally visible to the property across the street to the east.

GAROFALO Approximately how close are the residences going to be to the drive-thru?

GOLTRY I think the right-of-way is 100 feet.

**MOTION CARRIED 11-1 BISHOP opposed.**

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- 7a. **Case No.: CUP2003-52 DP268 (Associated with ZON2003-50)** – Holland Ventures, c/o George Holland; Robert H. & Joyce M. Jones; George Dimitropoulos Request The Creation of The Holland Commercial Community Unit Plan on property described as;

and

- 7b. **Case No.: ZON2003-50 (Associated with CUP2003-52 DP268)** - Holland Ventures, c/o George Holland; Robert H. & Joyce M. Jones; George Dimitropoulos Request Zone change from "SF-5" Single-Family Residential and "LC" Limited Commercial to "GC" General Commercial on property described as;

Lots 1, 2 and 3, Schniepp Addition, Wichita, Kansas, Sedgwick County, Kansas

AND

Lot 1, Payday Addition, Wichita, Sedgwick County, Kansas

AND

Lots 1, 2, 3, 4, 5, 6, and 7, Block D, Westport Addition, Sedgwick County, Kansas

AND

Beginning 1273 feet North of the Railroad Right-of-Way in the Southeast Quarter of

Section 29, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence North 184 feet; thence West 330 feet; thence South 184 feet; thence East to the point of beginning, except that part taken for road.

AND

The South Half of a tract in the Southeast Quarter of Section 29, Township 27

South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point 50 rods and 264 feet North of the Right-of-Way of the Wichita and Western Railroad on the East line of Section 29; thence North 368 feet; thence West 330 feet; thence South 368 feet; thence East 330 feet to the point of beginning. Generally located Northwest corner of Kellogg and Tyler.

**BACKGROUND:** The applicant is requesting to amend Parcels 11 and 12 of DP-78 The Moorings to allow commercial development in place of residential use, and to rezone the parcels to "LC" Limited Commercial. Parcel 12 is located at the northwest corner of 42<sup>nd</sup> Street North and Meridian and is 1.85± acres. Parcel 11 is located immediately to the north and is 12.02± acres. It is part of a large community unit plan of 245 gross acres (213 net acres) with 35 net acres proposed for commercial use and the balance of 177 net acres for residential use. To date, a small (0.52 net acre tract) has been developed with a small office, and 14 acres are developed with a church and fire station. Single-family/patio home development occupies the majority of the C.U.P., with two large parcels (35 acres) remaining undeveloped. Parcel 8, which is 1/6 mile to the north and is roughly eight acres, is undeveloped and zoned "LC."

The proposed amendment would allow all "LC" Limited Commercial uses except: cemetery; correctional placement residence; golf course; recycling collection station; car wash; construction sales and service; any industrial use; any agricultural use, any conditional use; taverns and drinking establishments; theaters, and bowling alleys. Recreation and entertainment, indoor, would be permitted only by separate C.U.P. amendment approval. No single use greater than 12,000 square feet in size except for a grocery store or drug store shall be permitted. Restaurants would not have drive-through windows located within 200 feet of residential zoning and order boards would not be audible from the residential property lines. No auto-serving uses, including but not limited to vehicle repair, limited, convenience stores with gas islands, service stations and car washes, would be permitted on Parcel 11. No overhead doors would be permitted within 150 feet of residential zoning or facing any residential zoning district.

Maximum building coverage is proposed as 30 percent, floor area ratio would be 0.35, and maximum building height would be 35 feet, except for 55 feet for residential structures or combined commercial/residential structures with upper stories for residential use. Perimeter setbacks would be 35 feet. C.U.P. requirements have been added for a concrete/masonry wall between the commercial tract and the adjacent residential tracts, architectural compatibility, landscaping, consistent lighting features, limited height and scale of signage, and pedestrian connectivity.

One additional access point on Meridian is requested.

A fire station has been constructed on the parcel to the west of Parcel 12. The area west of Parcel 11 is vacant but approved for single-family or patio homes. A church, Riverlawn Christian Church, is located to the south of Parcel 12 and a church, Northside Church of Christ, is located to the north of Parcel 11. The property east of Meridian is vacant. The surrounding area includes two single-family developments farther to the north of the application area. These are The Moorings and Harbor Isle. Three corners of the section line intersection with Meridian have eight acres of "LC" Limited Commercial zoning. The southwest corner is developed with Northside Church of Christ. A small office is located on a portion of the northwest corner. The southeast corner is vacant.

**CASE HISTORY:** The property is unplatted except for the northern edge of Parcel 11. It is included as right-of-way (Bachman Drive) on The Moorings Sixth Addition. All of the C.U.P. was platted except Parcels 11-15. A platting extension was granted until November 25, 1991. Then, a plat for the adjacent property to the northwest was filed in 1993 as The Moorings 8<sup>th</sup> Addition, but never completed and was closed in 1999. No corresponding action was taken to close the C.U.P., which therefore remains in effect. The area had a "Conditional Use" for a sand pit (CU-63) that has expired.

The Moorings was originally approved as a community unit plan in 1976. Amendment #1 was approved in 1982 and affected Parcel 6 by changing permitted uses from marina and clubhouse to residential. Amendment #2, approved April 4, 2002, divided Parcel 12 into two parcels and allowed the fire station to be constructed on the new Parcel 15.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5"; "LC"

SOUTH: "LC"

EAST: "SF-5"; "LC"

Church, vacant, residential

Church

Vacant, single-family residential

WEST: "SF-5"

Fire station, vacant

**PUBLIC SERVICES:** Meridian is a five-lane arterial and 42<sup>nd</sup> Street North is a two-lane local street without curb and gutter. Meridian is considered a primary arterial, connecting Wichita with Valley Center. Traffic counts were for 2002 were unavailable. Average Daily Trips (ADTs) from I-235 to one-half mile north are projected to be 18,660 in 2030. The C.U.P. proposes three points of access onto Meridian. Bachman Street is one of the openings. A private drive opening is shown in the middle of Parcel 11 and a major opening is shown on the south edge of Parcel 11.

The proposed use could generate approximately 8,200 vehicles per day, or a peak volume of 820 vehicles during the peak hour if the entire acreage were developed with typical strip commercial shopping center types of uses. This would be sufficient traffic volume to warrant a traffic study for the requested amendment. Currently the street has been improved to four through lanes and one continuous center turn lane between I-235 and Key West Street. Accel/decel lanes already are constructed for Meridian at the intersections north of the application area at Key West Street and Milro Street.

Normal municipal water and sewer services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development. The adjacent property to the north and south is shown as "public/institutional", and the next tier of properties to the north and south on the west side of Meridian are shown as "commercial".

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan.

**Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The C.U.P. has added landscape, screening and buffering requirements on the west property line and will restrict lighting and intensity of commercial uses near residential districts.

**RECOMMENDATION:** Although the community unit plan has allowed residential use for Parcels 11 and 12 since 1976, it has remained unplatted and undeveloped. Commercial use was expected to cluster north of these parcels at the mile-line point on Meridian, which is where the vacant "LC" Parcel 8 is located. Another vacant commercial tract is located nearby at the northwest corner of the interchange of I-235 and Meridian. This site is approximately ¼ mile to the south. Churches and the fire station fill up the balance of the frontage on the west side of Meridian from I-235 to Key West Street. Two undeveloped low-density residential tracts remain to the west of Parcels 11 and 12 and on the property to the east. The C.U.P. has added provisions to improve separation with the residential properties. Based on these factors and the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

C. APPROVE the zone change (ZON2003-00048) to "LC" Limited Commercial;

D. APPROVE the Community Unit Plan (DP-78) Amendment #3, subject to the following conditions:

1. Transportation requirements:
  - a. A site plan for shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
  - b. The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property.
  - c. A guarantee for signalization at the Meridian/Bachman intersection and/or at any drive access from the parcel shall be provided; with signalization being required if warranted by a traffic engineering study.
  - d. Access points shall be in conformance with the Access Management Policy.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
5. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-78) includes special conditions for development on this property.
6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area, Parcels 11 and 12, are part of a large community unit plan (DP-78 The Moorings Community Unit Plan) consisting of 245 gross acres (213 net acres). To date, a small (0.52 net acre tract) has been developed with a small office, and 14 acres are developed with a church and a fire station. Single-family and some patio homes development occupy the majority of the C.U.P., with two large parcels (35 acres) remaining undeveloped. Parcel 8, which is roughly eight acres, is undeveloped and zoned "LC". This tract is approximately 1/6 mile north of the subject tract. Additional "LC" property in the vicinity is located on the east side of Meridian across from Northside Church of Christ. Another "LC" property is located on the west side of Meridian between K-96 and the church located south of the C.U.P., Riverlawn Christian Church. The property immediately east of Parcels 11 and 12 is vacant and is zoned for single-family development as part of Harbor Isle.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property should be mitigated by the C.U.P. use restrictions and site development requirements for landscaping, screening, and lighting to buffer the commercial use from the single-family use and the requirements for internal site circulation and cross-lot circulation.
4. The length of time the subject property has remained vacant as zoned: The property has remained vacant with "SF-5" and approved for residential use as part of DP-78 The Moorings since 1976, but the property has not been platted except for the right-of-way for Bachman Drive on the northern edge of Parcel 11.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development, which is not in conformance with the zoning requested. The proposed use restrictions and site development requirements seek to follow commercial and residential objectives and locational guidelines of the *Comprehensive Plan*.
6. Impact of the proposed development on community facilities: The traffic increases from the development should be mitigated by the addition of accel/decel lanes and the possible addition of traffic signalization, if warranted. The spacing of the access points and streets may mitigate the need for signalization.

**MOTION:** To defer until November 9, 2003.

**MARNELL** moved, **COULTER** seconded the motion, and it carried (12-0).

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8. Case No.: ZON2003-52 – James L. and Deborah S. Zeiner, Pete Iseman (contract purchaser); Dennis Schmidt, Dan Unruh (agents) - Request Zone change from "SF-5" Single-family Residential to "NR" Neighborhood Retail with a Protective Overlay to restrict uses to those in the "SF-5" Single-family Residential District and Personal Improvement Services on property described as;

The East 435.6 feet of the North 254.5 feet of the South 2192.5 feet of the Southeast Quarter of Section 13, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located Northwest corner of 119<sup>th</sup> Street West and Hickory

**BACKGROUND:** The applicant is seeking "NR" Neighborhood Retail zoning subject to a Protective Overlay limiting uses to only those permitted in the "SF-5" Single-family Residential zoning district and personal improvement services on property located north and west of the intersection of 119<sup>th</sup> Street West and Hickory. (The site is located approximately 3/8 of a mile north and west of Central and 119<sup>th</sup> Street.) The application area is approximately five acres in size, and is developed with a residence. The applicant desires to use the site for a personal improvement service (photography studio). The applicant's agent indicates that the applicant initially plans to use the residence as his studio, but he may, at some later point, decide to demolish the residence and build a new studio. (Initially staff thought this use could be accommodated as a home occupation, but we have been advised that he does not intend to live on the site and he has non-family, outside employees.) The site has extensive landscaping on the all sides of the lot.

The properties surrounding the application area are zoned "SF-5" Single-family Residential, developed with residential uses or offered for development as single-family home sites or are open space associated with residential developments. Lot sizes range from urban scale, 6,000 - 10,000 square feet lots to larger suburban sized lots like the application area. One of the larger tracts located north of the application area is being divided into smaller lots and offered for residential use.

The "Unified Zoning Code" includes "portrait shops" and "photography studios" in the "personal improvement service" definition, and this use is permitted with a "Conditional Use" in the "GO" General Office district, and as a use "permitted by right" beginning with the "NR" Neighborhood Retail up through the more intense districts ("LC", "GC", "LI" or "GI"). Photography studios are also permitted as a "home occupation" in the "SF-5" district provided the operator complies with home occupation regulations that, in part, include requirements that the operator live on-site and employ only individuals who live on site. Other examples of "personal improvement services" include: art and music schools, licensed massage therapists, health and fitness studios, swimming clubs and handicraft or hobby instruction.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single-family Residential; residences  
SOUTH: "SF-5" Single-family Residential; residences  
EAST: "SF-5" Single-family Residential; residences  
WEST: "SF-5" Single-family Residential; residences

**PUBLIC SERVICES:** The site is not served by public sewer or water services, however these services are available for extension to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" map depicts this location as appropriate for "low density residential" uses. The "low density residential use" category provides for the lowest density of urban residential land use and consists of a mix of housing types. Schools, churches and other similar uses can also be found in this category. There may be pockets of higher density uses in areas designated as low density residential. Commercial location guidelines contained in the Comprehensive Plan indicate that commercial sites should be located adjacent to arterial streets; coordinated with mass transit routes, high-density residential, employment and other intensive uses; employ site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; be located in compact clusters or nodes and be established in areas in areas where traffic patterns, surrounding land uses and utilities can support such development.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties surrounding the application area are zoned "SF-5" Single-family Residential, and used for, or offered for use as residential or open space use connected to residential development. The area is entirely residential in character, the only difference being the size of lots. Some lots are smaller, urban scale lots in the 6-10,000 square foot size to suburban sized-lots like the application area. One of the larger tracts located north of the application area is being divided into smaller lots and offered for residential use.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as currently zoned as currently zoned and developed or the site could be redeveloped to permit additional residential lots with the current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would introduce commercial zoning and a variety of nonresidential uses to an area whose existing zoning and uses are totally residential. Even with the Protective Overlay, a variety of nonresidential uses are permitted under the "Personal Improvement Services" definition, some of which, such as health and fitness studios would not be appropriate at this location. Neighborhood Retail zoning at this location would constitute "spot commercial zoning."
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted "Comprehensive Plan" depicts this site as appropriate for low-density residential uses. The request is for commercial zoning which is not compatible with the Plan's recommended low -density residential uses at this location. The request is also not consistent with "Comprehensive Plan" commercial location guidelines. Commercial guidelines indicate commercial sites should be located adjacent to arterial streets; coordinated with mass transit routes, high-density residential, employment and other intensive uses; employ site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; be located in compact clusters or nodes and be established in areas in areas where traffic patterns, surrounding land uses and utilities can support such development.
6. Impact of the proposed development on community facilities: Sewer and water services are available for extension and other facilities are in place to serve the site.

Should the MAPC determine the request is appropriate, it should be approved subject to the following: a revised Protective Overlay that limits uses on the site to those uses permitted in the "SF-5" Single-family residential district and a photography studio; any new construction on the site shall be residential in character and use materials traditionally used in single-family home construction; signage shall be restricted to that permitted by a home occupation.

DALE MILLER Planning staff presented staff report.

WARREN What is north of this?

MILER Two homes to the north of there, yes. There is a sign that indicates it is being proposed for 4-5 residential lots.

KIM EDGINGTON, AM Consulting, agent The applicant had hoped to live on the land and have a photography studio. The use allow s for a home occupation, but he can't live in the house now and changed his mind. Currently, Mr. Iseman has no other employees. The average daily trip generation would be 10-12 trips. We have estimated that if it was subdivided, it could be 8-9 residential lots. There could also be a church or a school there as well. It is heavily landscaped with trees and leaves. That will all remain if this is a photography studio. It is secluded. We will maintain the landscaping and buffering. In driving by this site, you would see no change from what you would see today. There is going to be very little traffic in this area. There are far more intensive uses that could go in here, such as churches, daycare, that are currently allowed now.

DUNLAP You said no change, does that mean the building or old house is going to stay? It is usable now?

EDGINGTON Interior alterations only. It would not have to be torn down.

BARFIELD In the staff report it says the applicant's agent, that he plans to use it as a studio, but at some other time build a new home and a studio.

EDGINGTON The house is not in the greatest of repair. At sometime, if he is successful, he would like to remove that existing home, and build a new facility. In the P.O. anything new that would be built would have to appear as a residential structure, built of the same materials common in a residential building and designed residentially in nature.

WARREN You are in agreement to a P.O. Do you have one presented that we don't have?

EDGINGTON We presented that "SF-5" uses only, and personal improvement services, but staff noted that there are some uses that fall under the category of personal improvement services that may not be desirable on that site.

WARREN The P.O. would restrict it to the use that we are asked to grant?

EDGINGTON Yes.

MITCHELL The P.O. plays an important part in the application, we should have that.

EDGINGTON The P.O. will merely be a written statement that limits the uses to "SF-5" and photography studio.

MIKE MILES, 11801 Lost Creek Court, Wichita, KS 67212 We are opposed to any commercial development along 119<sup>th</sup> Street West. We are concerned that we moved into a residential area and want to keep it that way. We have petitions from homeowners that are against this. That whole area is the only street we can get to on Lost Creek. Whatever is on that road which we use and we have to look at whatever is there.

MARNELL Are you representing yourself?

MILES I am with my neighborhood. I am not saying we are representing the Board but the Board is against this proposal.

DOUG HAZELWOOD, 11817 Lost Creek, Wichita, KS 67212 The whole area, most of the neighbors are opposed to this zone change. We are worried about what might happen in the long term. He is laid off from Cessna, but once he gets called back, what is going to happen to the property? The concerns that we have are the visibility is limited, and if you look at these pictures the area drops down to the bridge. As you come north, you can't see the intersection where these people will be entering and existing. We have had a few accidents already there. The proposal is not consistent with the Comprehensive Plan. It is opposed by the residences in the area. We want you to deny this proposal.

LISA VICKERS, 12023 W. Hickory, Wichita, KS 67235 I am opposed to this zone change as well. I live on Hickory Street, the 6<sup>th</sup> house. My house, among others has our kids play on that street. We have 200 houses in the neighborhood. About 95% of the residences in our neighborhood are opposed to this zone change.

KENT SELBY, 12003 Hickory, Wichita, KS 67212 I live directly to the south of the property. I was given a copy of the Golden Rules. The character of the neighborhood is zoned residential. If you look at the Comprehensive Plan, it is zoned low residential. It has been a residence for quite sometime. It is surrounded by residential "spot zoning" and is poor planning. The closest retail is at the corner Central and 119<sup>th</sup>. This has to been vacant. The view is blocked by the trees. I would you request that you deny this request.

KIM EDGINGTON Mr. Iseman is here if you have any questions for him. We would not need to get permission from any other entity. We are not aware of any activity to the north. Mr. Iseman has been in the photography business for a long time. This is his full time occupation. He is willing to invest in the property, and clean this up and make this a very nice property. We believe this is a far better proposal and the provisions of the P.O. will insure the uses are restricted.

BARFIELD Where is Mr. Iseman practicing photography now?

ISEMAN My office, in my home, about 1/2 mile south of this location.

BARFIELD You will not occupy this house?

ISEMAN In its current form I will not occupy it.

GAROFALO On the P.O. it says it limits uses on the site to "SF-5" and The Unified Zoning Code allows by right photography studio, and it says residential public and services uses, daycare, limited, church, school, etc ...

EDGINGTON We are asking that only those uses that are allowed today by right in the property's current configuration as are all the other properties surrounding here. All of those things are allowed by right.

WARREN That is a nice place to live out there. We must face the fact 119<sup>th</sup> is going to be a major arterial, both Ridge, Tyler, and Maize are going to be using 119<sup>th</sup>. We also know residences do not develop on the major arterial. The ideal situation is to have a compatible conversion so that those areas become somewhat compatible with the rest of that neighborhood.

**MOTION:** To deny the request.

**GAROFALO** moved, **BISHOP** seconded the motion, and it carried (11-0).

9. **Case No.: ZON2003-51** - Bruce Pearson (owner/applicant); AM Consulting c/o Kim Edgington (agent) Request Zone change from "SF-5" Single-family Residential to "GO" General Office on property described as;

Lot 1, except the West 65 feet and Lot 2, except the East 60 feet, Block 2, Kell Hawkins Addition, Wichita, Sedgwick County, Kansas. Generally located South of Central and east of Doris.

**BACKGROUND:** The applicant requests a zone change from "SF-5" Single Family to "GO" General Office on a 0.2-acre platted tract located south of Central and east of Doris. The subject property is part of two separate lots and is undeveloped. The applicant intends to develop the subject property with unspecified office type uses.

The surrounding area is characterized by primarily commercial uses along Central, with residential uses located on the interior properties beyond the commercial frontage. The properties to the south and east are zoned "SF-5" Single Family and are developed with single-family residences. The property to the west is zoned "LC" Limited Commercial and is developed with a single-family residence. The property to the north across Central is zoned "TF-3" Two Family and is developed with a single-family residence.

**CASE HISTORY:** The subject property is platted as part of the Kell Hawkins Addition, which was recorded July 6, 1939.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"TF-3"	Single Family
SOUTH:	"SF-5"	Single Family
EAST:	"SF-5"	Single Family
WEST:	"LC"	Single Family

**PUBLIC SERVICES:** The subject property has frontage along Central, a five-lane arterial street. Current traffic volumes on Central are approximately 21,500 vehicles per day. The 2030 Transportation Plan estimates that future traffic volumes on Central will increase to 24,000 vehicles per day and does not recommend any improvements to Central beyond its present five-lane configuration. Planning staff estimates that the proposed development would generate less than 100 trips in the peak hour; therefore, the Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. The subject property currently provides 40-feet of half-street right-of-way for Central, which is 20 feet less than recommended by the Access Management Policy. The Access Management Policy indicates that the first access drive to Central should be located 200 feet east of Doris; however, the subject property provides no access control to Central or cross-lot access easements to effect the driveway location recommendations of the Access Management Policy. Public water and sewer are available to serve the subject property; however, the subject property provides no easements for the extension of utilities. Therefore, planning staff recommends that the subject property be replatted in order to affect the policies of the Access Management Policy and to establish utility easements.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The subject property conforms to the Land Use Guide and Locational Guidelines.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to completing lot splits within one year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized primarily by commercial uses along Central. Most of the properties along Central in this area are zoned "LC" Limited Commercial or "GO" General Office. That mix of zoning and uses in the vicinity of the subject property have proven to be compatible with this neighborhood's residential areas. Therefore, the request is compatible with the zoning, uses, and character of the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is zoned "SF-5" Single Family, which accommodates low-density single-family residential development and complementary land uses. Given the subject property's location along an arterial street primarily developed with commercial uses, the viability of single-family development on the subject property is questionable. The property is more suited for commercial or institutional uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely



impacting surrounding residential areas. The subject property conforms to the Land Use Guide and Locational Guidelines.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated if the subject property is replatted to effect the policies of the Access Management Policy and to establish utility easements.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**BARFIELD** moved, **WELLS** seconded the motion, and it carried (12-0).

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The Metropolitan Area Planning Department informally adjourned at 4:27 p.m.

State of Kansas     )  
Sedgwick County    ) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)